

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION

UNITED STATES OF AMERICA

V.

CRIMINAL ACTION NO. 3:97-CR-00006-NBB

MAURICE CLIFTON

DEFENDANT

ORDER

This matter comes before the court upon Defendant Maurice Clifton's *pro se* motion for summary relief, default judgment, and conceded dismissal and acquittal. In the instant motion, Clifton claims that his indictment, conviction, sentence and current imprisonment violates the United States Constitution.

Clifton's petition is effectively a motion to vacate judgment and sentence. Although it is not labeled as such, "the name makes no difference. It is the substance that controls." *United States v. Lloyd*, 398 F.3d 978, 980 (7th Cir. 2005). Clifton's motion, therefore, falls within the ambit of 28 U.S.C. § 2255. Clifton has already filed more than one unsuccessful § 2255 motion. *See* Doc. # 71 (order denying motion to vacate sentence under § 2255); Doc. #77 (notice of Fifth Circuit denying Clifton's request to file a successive § 2255 motion).

The Antiterrorism and Effective Death Penalty Act requires that an applicant seeking to file a second or successive motion first be certified by a panel of the appropriate court of appeals. *See* 28 U.S.C. § 2255(h); *see also* 28 U.S.C. § 2244(b)(3)(A). Clifton again seeks the same relief that he requested in a previous motion which the Fifth Circuit recently dismissed. *See* Doc. #106 (order dismissing authorization to file a successive § 2255 petition). Thus, Clifton has been denied authorization to file the instant motion.

Accordingly, the court finds that Clifton's motion is not well-taken and is, therefore, **DENIED**. Clifton is reminded that he must be granted permission from the Fifth Circuit Court of Appeals before filing motions falling within the scope of § 2255.

SO ORDERED AND ADJUDGED this, the 20th day of December, 2018.

/s/ Neal Biggers

NEAL B. BIGGERS, JR.

UNITED STATES DISTRICT JUDGE